

APPENDIX

APPENDIX A

UNITED STATES OF AMERICA FEDERAL POWER COMMISSION

Before Commissioners: Jerome K. Kuykendall, Chairman;
Frederick Stueck, Arthur Kline and Paul A. Sweeney.

Pan American Petroleum Corporation)
ration (formerly Stanolind Oil) Docket No. G-4904
and Gas Company))

ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AND GRANTING IN PART AND DENYING IN PART APPEAL AND MOTIONS

(Issued December 1, 1960)

This proceeding involves an application filed by Pan American Petroleum Corporation (Pan American)¹ for a certificate of public convenience and necessity under subsections (c) and (e) of Section 7 of the Natural Gas Act (Act) authorizing the sale of natural gas to Cities Service Gas Company (Cities Service). The case is now before us by virtue of an appeal by Pan American from certain rulings of the presiding examiner at the hearing. The company's appeal, which was filed on November 10, 1958, is accompanied by motions that we order the record certified to the Commission, reverse certain rulings by the examiner, grant a continuance, and specify the issues to be heard. For the reasons hereinafter set forth, we are granting the motion that the record be certified to the Commission; and on the basis of the record, we are reversing the examiner's

¹ At the time the filing was made, the company's name was Stanolind Oil and Gas Company; the change to Pan American was made on February 1, 1957.

rulings complained of and shall hereinafter issue to Pan American a certificate of public convenience and necessity. In the light of this action, Pan American's other requests shall be denied.

The sale to Cities Service covered by Pan American's certificate application, which was filed with the Commission on November 16, 1954, is of gas from the Hugoton Field in Kansas.² In accordance with the Commission's Regulations, Pan American filed with its application a copy of its gas sales contract with Cities Service. The contract, which was dated June 23, 1950, and which was for a term of 20 years, provided for an initial price to Cities Service of 8.4 cents per Mcf (16.4 psia). Concurrently, Pan American filed with its application a copy of a minimum price order of the State Corporation Commission of Kansas, issued December 2, 1953, prescribing a price for sales from the Kansas Hugoton Field of 11 cents per Mcf (14.65 psia).

Likewise, on November 16, 1954, Pan American tendered for filing with the Commission as its rate schedule a copy of its aforesaid contract with Cities Service, which contract was accepted by the Commission and designated Pan American's FPC Gas Rate Schedule No. 84. Certain supplements filed with the contract included a copy of the aforesaid Kansas minimum price order, which the Commission designated as Supplement No. 77 to Rate Schedule No. 84.

Pan American's certificate application was set for hearing on September 9, 1958, under the Commission's shortened procedure. However, the intervention by Cities Service made a contested hearing necessary. The hearing was commenced on November 4, 1958, and, continuing on

² The sale in question was being made on June 7, 1954, the date of the Supreme Court's decision in *Phillips Petroleum Co. v. Wisconsin*, 347 U.S. 672, and the cut-off date under our Regulations issued in pursuance thereof.

November 6, 1958, was recessed on that date to resume subsequently. No further hearing has been held.

At the hearing, all parties and staff counsel agreed that a certificate authorizing the sale by Pan American to Cities Service should be granted. Only one matter was contested, namely, what was the price on June 7, 1954, for this sale. Pan American took the position that the correct price for the sale was then 11 cents per Mcf as provided by the Kansas minimum price order, Supplement No. 77. Cities Service took the position that the correct price was 3.4 cents per Mcf, as provided by the parties' original contract, Pan American's Rate Schedule No. 84. This dispute, however, the parties would have eliminated by their proposal on November 5, 1958, at the hearing, to enter into a stipulation providing, in effect, that a certificate should be granted but that the grant thereof would not determine the price issue and was without prejudice to the rights of either of the parties with respect to this issue.

However, the examiner refused to permit such a stipulation, ruling in essence that the question of what was the price for this sale on June 7, 1954, was in issue herein; that it was necessary to resolve this issue in this certificate proceeding; and that the parties by stipulation could not remove this issue from the case. Accordingly, the examiner directed that the hearing should subsequently be resumed with respect to this issue.

Pan American's appeal herein is aimed primarily at the above rulings of the examiner. The company contends that the price dispute between it and Cities Service need not be determined in this case, and should not be, in view of the pendency of litigation respecting this matter in the Kansas courts. Pan American also alleges that assuming the issue is properly to be determined here, the examiner erred in refusing to issue subpoenas requiring the appearances of certain witnesses claimed to be needed to testify respecting

the price issue, in refusing to grant a longer continuance to permit the preparation of Pan American's case on the price issue, and in other respects.

Cities Service filed a response to Pan American's appeal on November 21, 1958. This company takes the position that Pan American introduced the price issue by its allegation in its application that the proper rate for the sale was 11 cents, which allegation Cities Service denies; that the courts have heretofore decided the disputed price issue adversely to Pan American; and that under such judicial decisions the correct rate for this sale is 8.4 cents and the Commission should so find and should not defer decision pending any further decision on this matter by the State courts.

We are of the view that it is neither necessary nor appropriate for the Commission to determine in this proceeding what is the price for the sale by Pan American to Cities Service, or to pass on the various issues related to this dispute. This case has been long pending and it is imperative that it be disposed of without further delay. The contract price of 8.4 cents per Mcf is justified under the requirements of public convenience and necessity. The price of 11 cents per Mcf provided for by the supplement to the contract is below the price permitted by our Statement of General Policy No. 61-1 issued September 28, 1960, and obviously is also justified under the standard of public convenience and necessity. The dispute between Pan American and Cities Service over the price for this sale is being litigated by the parties in the Kansas courts, and the matter may reasonably be left for disposition by the courts.

It is obviously desirable that this order include a provision that the Commission's action herein is without prejudice to whatever determinations may be reached by the courts or the Commission with respect to the dispute between Pan American and Cities Service concerning the price for this sale.

The Commission further finds:

(1) Pan American Petroleum Corporation, the applicant herein, is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and is therefore a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sale of natural gas by Pan American to Cities Service hereinbefore described, as more fully described in the application, as amended, is made in interstate commerce, subject to the jurisdiction of the Commission, and such sale by applicant, together with the operation of any facilities therefor subject to the jurisdiction of the Commission, is subject to the requirements of subsections (c) and (e) of Section 7 of the Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sale of natural gas by Pan American, together with the operation of any facilities therefor subject to the jurisdiction of the Commission, is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) A certificate of public convenience and necessity is hereby issued authorizing Pan American to sell natural gas to Cities Service, and to continue to operate any facilities subject to the jurisdiction of the Commission used for such sale, as hereinbefore described and as more fully described in the application and exhibits in this proceeding, upon the terms and conditions of this order.

(B) This certificate is not transferable and shall be effective only so long as applicant continues the acts or operations hereby authorized in accordance with the provisions of the Act and applicable rules, regulations and orders of the Commission.

(C) The issuance of this certificate does not constitute a determination of what was or is the price for the sale by Pan American to Cities Service, and is without prejudice to whatever determinations may be reached on the dispute between Pan American and Cities Service concerning this matter, or the rights of the parties in regard to this matter.

(D) Pan American's appeal and motions, filed herein on November 10, 1958, are granted to the extent hereinabove set forth, otherwise, they are denied. To the extent hereinabove indicated, the above described rulings of the examiner are reversed.

By the Commission.

/s/ J. H. Gutride
Joseph H. Gutride,
Secretary.

APPENDIX B

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Jerome K. Kuykendall, Chairman;
Frederick Stueck and William R. Connoles.

DOCKET NOS.

Pan American Petroleum Corporation	) RI60-208, -209
Pan American Petroleum Corporation)
(Operator), et al.	) RI60-210
E. J. Hudson, et al.	) RI60-211
Elliott Production Company	) RI60-212
Western Natural Gas Company	) RI60-213
The British-American Oil Producing)
Company	) RI60-214
Sinclair Oil & Gas Company	) RI60-215
Socony Mobil Oil Company, Inc.	) RI60-216
The Shamrock Oil and Gas Corporation)
(Operator)	) RI60-217

ORDER AMENDING "ORDER PERMITTING FILING,
PROVIDING FOR HEARINGS ON AND SUSPENSION
OF PROPOSED CHANGES IN RATES, AND ALLOWING
INCREASED RATE TO BECOME EFFECTIVE SUBJECT
TO REFUND"

(Issued April 22, 1960)

On March 25, 1960, the Commission issued its order in the above-designated proceedings suspending certain proposed increased rates. The order included a list of the rates presently in effect under the rate schedules involved in the proceedings. These rates, appearing under the "Rate in Effect" column of that order, describe only what the respondents claim to be the presently effective rates. The inclusion of the list was not intended as a Commission de-

termination that the listed rates are the presently effective legal rates. Our order should be amended to reflect the purport of the "Rate in Effect" column.

The Commission finds:

The suspension order issued March 25, 1960, in the proceedings in Docket Nos. RI60-208 through RI60-217 should be amended to include a footnote "2A" to the "Rate in Effect" column, as hereinafter ordered.

The Commission orders:

The Commission's suspension order issued March 25, 1960, in the proceedings in Docket Nos. RI60-208 through RI60-217 is amended to include a footnote "2A" to the "Rate in Effect" column appearing on pages 2 and 3 of that order, as follows: "2A/ The rates listed in this column are those claimed by the respondents to be the presently effective rates. The reflection of these rates in this manner is not a Commission determination that these are the presently effective legal rates."

By the Commission.

/s/ J. H. Gutride
Joseph H. Gutride,
Secretary.

OGC
AJSR:lc
4/21/60

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Jerome K. Kuykendall, Chairman;
Frederick Stueck, William R. Connole and Arthur
Kline.

DOCKET NOS.

Pan American Petroleum Corporation	) RI60-208, -209
Pan American Petroleum Corporation)
(Operator), et al.	) RI60-210
E. J. Hudson, et al.	) RI60-211
Elliott Production Company	) RI60-212
Western Natural Gas Company	) RI60-213
The British-American Oil Producing)
Company	) RI60-214
Sinclair Oil & Gas Company	) RI60-215
Socony Mobil Oil Company, Inc.	) RI60-216
The Shamrock Oil and Gas Corporation)
(Operator)	) RI60-217

ORDER PERMITTING FILING, PROVIDING FOR
HEARINGS ON AND SUSPENSION OF PROPOSED
CHANGES IN RATES, AND ALLOWING INCREASED
RATE TO BECOME EFFECTIVE SUBJECT TO RE-
FUND¹

(Issued March 25, 1960)

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for the sale of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

¹ This order does not provide for the consolidation for hearing or disposition of the separately-docket matters covered herein, nor should it be so construed.

Docket No.	Respondent	Rate Sheet No.	Supp. No.	Purchaser and Producing Area	Notice of Change Dated	Date Tendered	Effective Date Unless Suspended	Date Suspended Until	Rate in Effect	Proposed Effect Increased Rate	Subject To Refund in Docket Nos.
H60-206 Pan American Petroleum Corp.				1. Southern Natural Gas Co. (Houston Fld., Howard Co., Ark.)	2-25-60	2-25-60	3-23-60	8-28-60	11.0	15.0	
				2. Northern Natural Gas Co. (Houston Fld., Haskell Co., Kan.)	2-25-60	2-25-60	3-23-60	8-28-60	11.0	15.0	
				3. Northern Natural Gas Co. (Houston Fld., Howard Co., Ark.)	2-25-60	2-25-60	3-23-60	8-28-60	11.0	15.0	
H60-209 Pan American Petroleum Corp.		18	6	Northern Natural Gas Co. (Houston Fld., Haskell Co., Kan.)	2-25-60	2-25-60	8-17-60	1-10-61	11.0	15.0	
H60-210 Pan American Petroleum Corp. (Operator), et al.		17	13	Northern Natural Gas Co. (Houston Fld., Haskell Co., Kan.)	2-25-60	2-25-60	3-23-60	8-28-60	11.0	15.0	
H60-211 E. J. Hudson, et al.		8	3	Tennessee Gas Transmission Co. (W. Delta Farm Fld., Lafourche Par., La.)	2-16-60	2-29-60	3-31-60	8-31-60	18.5	19.5	
H60-212 Elliott Production Co.		1	2	W. Texas Natural Gas Co. (Dillberry & Bush Flds., Gar. Co., N. Mex.)	Updated	2-29-60	3-31-60	8-31-60	9.5	15.5	
H60-213 Western Natural Gas Co.		17	5	Galles Service Gas Co. (Houston Fld., East & Stanton Cos., Kan.)	Updated	2-26-60	4-1-60	9-1-60	11.0	15.0	
H60-214 The British-American Oil Refining Co.		11	2	Lone Star Gas Co. (W. E. Moore Fld., Garvin Co., Okla.)	2-23-60	2-26-60	3-28-60	8-28-60	11.0	15.0	1-1-67
H60-215 Sinclair Oil & Gas Co.		17	5	Phillips Petroleum Co. (W. Panhandle Fld., Hutchinson Co., Tex.)	2-24-60	2-26-60	4-1-60	9-1-60	11.1056 3/4 10.6547 5/8	12.1152 11.6643	G-10293

Docket No. H60-206, et al.

Docket No.	Respondent	Rate Sheet No.	Supp. No.	Purchaser and Producing Area	Notice of Change Dated	Date Tendered	Effective Date Unless Suspended	Date Suspended Until	Rate in Effect	Proposed Effect Increased Rate	Subject To Refund in Docket Nos.
H60-214 Sinclair Oil & Gas Co.		16	5	Phillips Petroleum Co. (W. Panhandle Fld., Hutchinson Co., Tex.)	2-24-60	2-26-60	4-1-60	9-1-60	11.1056 3/4 10.6547 5/8	12.1152 11.6643	G-10293
		23	5	Phillips Petroleum Co. (W. Panhandle Fld., Hutchinson Co., Tex.)	2-24-60	2-26-60	4-1-60	9-1-60	11.1056 3/4 10.6547 5/8	12.1152 11.6643	G-10293
H60-216 Secony Mobil Oil Co., Inc.		99	6	Tennessee Gas Transmission Co. (Bethany Fld., Panola Co., Tex.)	2-25-60	2-26-60	4-1-60	9-1-60	13.5	14.428	
		225	2	Lone Star Gas Co. (Katie Fld., Garvin Co., Okla.)	2-25-60	2-26-60	3-28-60	8-28-60	11.0	16.8	
H60-217 The Seaboard Oil and Gas Corporation (Operator)		16	16	Panhandle Eastern Pipe Line Company (Panhandle Fld., Moore and Sherman Cos., Texas)	2-23-60	2-26-60	3-28-60	3-29-60	7.354 1/2 9.7401 5/8	7.9475 10.5155	7/8

The stated effective dates are those requested by respondents or the day after the required thirty days' notice, whichever is later.

The stated rates of E. J. Hudson, et al. are at a pressure base of 15.025 psia. The other rates are at a pressure base of 14.65 psia.

Until five months after the rate suspended in H60-168 is made effective, if later.

West gas.

Other gas.

In support of their proposed increased rates, Pan American Petroleum Corporation (Pan American) and Pan American Petroleum Corporation (Operator), et al. submit a price arbitration decision and cite the pricing provisions in their contracts. They also state that the contracts were negotiated at arm's length; that gas is priced below competing fuels; and that producer rates should be judged according to prices appearing in currently negotiated contracts, which prices are above the proposed rates. It does not appear that Pan American's FPC Gas Rate Schedule No. 38 provides for price arbitration; rather it provides for a price equal to the price paid under another contract. That other price is presently under suspension in Docket No. RI60-168 until August 10, 1960, or until such further time as it is made effective in the manner prescribed by the Natural Gas Act. Pan American's proposed changes under its Rate Schedule No. 38 may be accepted for filing, but should be suspended for five months after the suspended rate in RI60-168 is made effective.

In support of its proposed periodic increased rate, E. J. Hudson, et al. (Hudson) states that the proposed rate is required to compensate for increased costs and to encourage the maximum production of gas. Hudson also states that the proposed increase is less than a favored-nation increase, the right to which Hudson has waived, and less than a redetermined increase, which Hudson might still file for.

In support of its proposed renegotiated increased rate, Elliott Production Company (Elliott) states that it agreed to give up the favored-nation clause in its contract in return for the proposed price; that such a move will benefit the public by helping stabilize producer prices; and that the price is in line with others in the area.

Western Natural Gas Company (Western Natural) states that its contract comprising its FPC Gas Rate Schedule No. 17 terminates as of April 1, 1960. Western Natural

has applied under Docket No. G-18662 for permission to abandon the present service and under Docket No. G-18661 for a certificate to sell to another purchaser (at the price proposed herein).

In support of its proposed periodic increased rate, The British-American Oil Producing Company cites its contract, states it was negotiated at arm's length, and states that periodic pricing provisions are a common way of providing for lower initial prices.

In support of its proposed periodic increased rates, Socony Mobil Oil Company, Inc. states that its contract was negotiated at arm's length for the installment sale of gas, that gas should be priced on a commodity basis, and that costs have been steadily increasing.

In support of its proposed periodic increased rates, Sinclair Oil & Gas Company cites its contracts, states it negotiated at arm's length, and states that the proposed prices are in line with recently certificated prices in the area.

In support of its proposed increased rates, The Shamrock Oil and Gas Corporation (Operator) (Shamrock) refers to its cost of service studies submitted under Docket Nos. G-14077 and G-12307. Shamrock also cites its contract and states the Commission has accepted increases to higher rates in the area. Shamrock further states that the proposed rates are lower than the prices of competitive fuels and that its costs are rising more and more above its jurisdictional revenues. Shamrock's proposed rates are based on a contract provision entitling it to certain increases if Panhandle Eastern Pipe Line Company (Panhandle) receives increased rates. Panhandle has filed for increased rates, which have been suspended under Docket No. G-19730 until March 26, 1960 or until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

The proposed changes may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for waiving the 90-days-maximum notice limit of Section 154.94(b) of the Commission's Regulations under the Natural Gas Act and for permitting the filing of Supplement No. 6 to Pan American's FPC Gas Rate Schedule No. 38.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

(3) It is necessary and proper in carrying out the provisions of the Natural Gas Act that Supplement No. 16 to Shamrock's FPC Gas Rate Schedule No. 4 be allowed to take effect subject to refund upon the timely filing of an agreement and undertaking, as hereinafter ordered.

The Commission orders:

(A) The 90-days-maximum notice limit of Sections 154.94(b) of the Commission's Regulations under the Act is waived and the filing of Supplement No. 6 to Pan American's FPC Gas Rate Schedule No. 38 is permitted.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 15 thereof, the Commission's Rules of Practice and Procedure and the Regulations under the Natural Gas Act (18 CFR, Chapter I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(C) Pending hearings and decisions thereon, each of the above-designated supplements is hereby suspended and the use thereof deferred until the date indicated in the above "Rate Suspended Until" column, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) Supplement No. 16 to Shamrock's FPC Gas Rate Schedule No. 4 shall be effective as of March 29, 1960, or as of the day after the rates suspended under Docket No. G-19780 are made effective, whichever is later: *Provided*, that within 20 days from the date of this order, Shamrock shall execute and file under Docket No. RI60-217 with the Secretary of the Commission an agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder (prescribed by Order No. 215 and Order No. 215A). The agreement and undertaking shall be signed by a responsible officer of Shamrock, shall be attested, and shall be accompanied by proper authorization from the board of directors and by a certificate showing service of copies upon all purchasers under the rate schedule involved. Unless Shamrock is advised to the contrary within 15 days after the filing of such agreement and undertaking, it shall be deemed to have been accepted for filing.

(F) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure [18 CFR 1.8 or 1.37(f)] on or before May 11, 1960.

By the Commission. Commissioner Kline dissenting as to the suspension of the rate filings in Docket Nos. RI60-215 and RI60-217 and Supplement No. 6 to Socony Mobil's FPC Gas Rate Schedule No. 99 in Docket No. RI60-216. He would reject the rate filings in Docket No. RI60-214 and Supplement No. 2 to Socony Mobil's FPC Gas Rate Schedule No. 225 in Docket No. RI60-216.

Commissioner Connoles not participating in Docket Nos. RI60-208 through Docket No. RI60-216.

/s/ J. H. Gutride
Joseph H. Gutride,
Secretary.

APPENDIX C

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Jerome K. Kuykendall, Chairman;
Frederick Stueck, Arthur Kline and Paul A. Sweeney.

Socony Mobil Oil Company, Inc.)
(formerly Magnolia Petroleum) Docket No. G-16717
Company))

ORDER DENYING APPLICATION FOR REHEARING
(Issued January 24, 1961)

On December 20, 1960, Socony Mobil Oil Company, Inc., filed an application for rehearing of the Commission's order issued herein on November 22, 1960, denying its petition for determination of the effective rate on June 7, 1954, for the sale of gas to Cities Service Gas Company from the Hugoton Field, Kansas. The Kansas minimum price orders having been held invalid by the United States Supreme Court, dispute has arisen between these two companies as to the correct price for this sale. In our order of which rehearing is sought, we pointed out that we have stricken the invalid Kansas order from our files, in accordance with judicial instructions. We further pointed out that litigation is pending in the United States District Court in Kansas respecting the controversy between Socony Mobil and Cities Service arising from the invalidation of the Kansas order. Accordingly, we held that it is neither necessary or appropriate for the Commission, at least at this time, to undertake to determine the rate for this sale. These reasons are still sound and we adhere to this decision.

The Commission further finds:

The assignments of error and grounds for rehearing set forth in the application for rehearing filed herein on December 20, 1960, by Socony Mobil Oil Company, Inc., set forth no new facts or principles of law which were not fully considered by the Commission when it issued its order of November 22, 1960, or which, having now been considered, warrant any change in or modification of the said order.

The Commission orders:

The application for rehearing of the Commission's order issued November 22, 1960, filed herein by Socony Mobil Oil Company, Inc., on December 20, 1960, is hereby denied.

By the Commission.

/s/ J. H. Gutride
Joseph H. Gutride,
Secretary.

APPENDIX D

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Jerome K. Kuykendall, Chairman;
Frederick Stueck and Arthur Kline.

	DOCKET NOS.
Cities Service Gas Company)	G-18799
Western Natural Gas Company)	
v.)	G-14958
Cities Service Gas Company)	

ORDER DENYING PETITION FOR LEAVE TO
INTERVENE AND DENYING MOTION TO
CONSOLIDATE PROCEEDINGS

(Issued February 9, 1961)

On January 18, 1961, Western Natural Gas Company (Western) filed a petition for leave to intervene in Docket No. G-18799, and a motion to consolidate for hearing the proceedings in Docket Nos. G-18799 and G-14958. The proceeding in Docket No. G-18799 concerns the lawfulness of increased rates for jurisdictional sales of natural gas by Cities Service Gas Company (Cities Service) and was initiated by the Commission's order of June 19, 1959, suspending such proposed increased rates and providing for a hearing thereon. Docket No. G-14958 arose from a complaint filed by Western alleging failure of Cities Service to pay Western for gas purchased at the rate alleged by Western to be the lawful filed rate. This controversy arose as a result of the action of the Supreme Court of the United States in invalidating state minimum price orders with respect to sales of natural gas. Cities Service Gas Company v. State Corporation Commission of Kansas, 355 U.S. 391. Cities Service has instituted litigation in the Superior Court

of the State of Delaware for refund by Western of the difference between the contract price and the rate resulting from the state minimum price order. This litigation has not been concluded.

Answers and objections to Western's aforesaid petition and motion were filed by Cities Service on January 31, 1961, and by the Municipal Group for Opposing Increase in Natural Gas Rates, on January 27, 1961.

In support of its petition to intervene in Docket No. G-18799, Western cites its controversy with Cities Service concerning the proper rate for the gas sales by Western to Cities Service and asserts that it has an interest which may be involved in the proceeding which cannot be adequately represented by any other party to the proceeding. In view of the fact that Western is neither a resale customer of Cities Service nor a consumer of gas sold by Cities Service, it does not appear that Western has an interest in the proceeding in Docket No. G-18799 which would warrant its participation therein. Accordingly, its petition for intervention should be denied.

Since litigation is now pending between the parties concerning the lawful rate for the sale and purchase of gas, it is neither necessary, appropriate, nor in the public interest for the Commission, at this time, to undertake to determine the rates for these sales, and the motion for consolidation of the said proceedings should be denied...

The Commission orders:

Western's petition for leave to intervene in Docket No. G-18799 and its motion to consolidate the proceedings involved in Docket Nos. G-18799 and G-14958, filed with the Commission on January 18, 1961, are hereby denied.

By the Commission.

/s/ J. H. Gutride
Joseph H. Gutride,
Secretary.

APPENDIX E

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Jerome K. Kuykendall, Chairman;
Frederick Stueck, Arthur Kline and Paul A. Sweeney.

DOCKET NOS.

Cities Service Gas Company	)	G-2410
	)	G-9468
)	
Socony Mobil Oil Company, Inc.	)	G-16717

ORDER ACCEPTING OFFER OF SETTLEMENT,
GRANTING MOTION TO DISCHARGE
FROM REFUND OBLIGATIONS, AND ACCEPTING
RATE SCHEDULE SUPPLEMENTS FOR FILING
(Issued February 28, 1961)

On January 18, 1961, Socony Mobil Oil Company, Inc. (Socony), submitted an offer of settlement in Docket No. G-16717, pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure. On the same date, Cities Service Gas Company (Cities Service) filed a corollary motion requesting that it be discharged from certain of its refunding obligations in Docket Nos. G-2410 and G-9468.

The proceeding in Docket No. G-16717 was instituted upon a petition by Socony, requesting a hearing to determine its effective rate as of June 7, 1954, for the sale of gas to Cities Service from the Hugoton Field, Kansas. The sale is made under Socony's FPC Gas Rate Schedule No. 3.

On February 19, 1957, Socony tendered for filing, as its rate schedule for the subject sale, a gas sales contract dated June 17, 1946. The contract provided for a price of 6¢ per Mcf at 16.4 psia until June 1961, and an adjustment of price

thereafter by agreement or arbitration. Concurrently, Socony tendered for filing as supplements to the rate schedule certain agreements, letters, etc., including an interim order of the State Corporation Commission of Kansas, of February 18, 1949, prescribing a minimum price at the wellhead for Kansas Hugoton gas of 8.0¢ per Mcf (16.4 psia); an order of May 20, 1953, providing for a State standard base for measurement at 14.65 psia; and an order issued December 2, 1953, providing for a minimum price of 11.0¢ per Mcf (14.65 psia) for gas at the wellhead in the Hugoton Field. This latter order was designated as Supplement No. 26 to the subject rate schedule. By Commission orders issued March 21, 1957, and May 17, 1957, the base rate schedule and supplements thereto were accepted for filing.

Judicial review of the two Kansas Minimum Price Orders and the Commission's acceptance of Supplement No. 26 produced the following results:

1. The 8¢ per Mcf minimum price order was upheld by the Supreme Court of the State of Kansas (*Kansas-Nebraska Natural Gas Company v. State Corporation Commission*, 169 Kansas 722, 222 P.2d 704, rehearing denied 225 P.2d 1054).¹

2. The 11¢ per Mcf minimum price order was held invalid by the United States Supreme Court (*Cities Service Gas Company v. State Corporation Commission of Kansas*, 355 U.S. 391).

3. The Commission struck from its files Supplement No. 26 and returned it to Socony, in compliance with a mandate from the court (*Cities Service Gas Company v. F.P.C.*, 255 F.2d 860, cert. den. 358 U.S. 837).

In addition to the above court actions, Cities Service instituted suit against Socony in the United States District Court for the District of Kansas, in Case No. W-1095, seek-

¹ This decision was not appealed to the United States Supreme Court.

ing recovery of the difference between 11¢ per Mcf at 14.65 psia (the Kansas 11¢ minimum price which Cities Service had paid under protest) and 6¢ per Mcf at 16.4 psia (the price set out in the original contract for the subject sale) for the period of time from January 1, 1954, and continuing down to the date of disposition of such litigation. In this litigation, Socony has denied any indebtedness to Cities Service for this sale and has filed counterclaims against Cities Service. As part of its defense, Socony has asserted that Cities Service, through its conduct, action, acquiescence, estoppel, and payments, has amended the terms of the price provisions of the contract to a price no lower than 8¢ per Mcf at 16.4 psia. On January 10, 1961, the court rendered its decision and made the following finding:

The Court, based on the evidence and upon the agreement and stipulation of the parties, finds that the legally effective rate between the parties for such gas from and after January 1, 1954 and as of the date of this judgement, is 7.5¢ per Mcf (16.4 psia).

On January 25, 1961, Socony tendered the aforementioned court order to establish the June 7, 1954 rate as 7.5¢ per Mcf at 16.4 psia for the subject sale, which has been designated as Supplement No. 29 to Socony's FPC Gas Rate Schedule No. 3.

On January 13, 1961, Socony tendered for filing a proposed rate increase to 11.0¢ per Mcf at 14.65 psia for the subject sale, which has been designated as Supplement No. 20 to the aforementioned rate schedule. Socony, in this rate increase filing, has requested that the filing date of such increase be considered the date the Commission approves Socony's offer of settlement and Cities Service's corollary motion. Socony further requests waiver of the thirty days' notice requirement and states that the sub-

mittal of the rate increase proposal is contingent upon the Commission's approval of its offer of settlement.

In its motion, Cities Service requests the Commission to discharge it from certain obligations under the settlement order issued May 25, 1956, in Docket Nos. G-2410 and G-9468 (15 F.P.C. 1448), on the basis of the finding in the above-mentioned judgement of the United States District Court for the District of Kansas. By the settlement order the Commission recognized the possibility of further refunds to Cities Service if the minimum price orders were invalidated and, in such eventuality, required refund of the difference between the contract price and the amount paid under minimum price orders. The proposed motion and settlement cover overpayments made by Cities Service to Socony, for gas purchased during the period January 1, 1954, through November 22, 1960. During that period, the difference between the 11.0¢ per Mcf rate paid and the 6.0¢ per Mcf contract price for gas purchased amounted to \$7,055,729. On the basis of the court's judgement, Cities Service would receive a refund of \$5,434,447, \$3,975,037 of which would be applicable to the period of time covered by Docket Nos. G-2410 and G-9468. Cities Service proposes to distribute to the persons entitled thereto the portion of the \$3,975,037 applicable to jurisdictional sales as provided in the settlement order and as satisfaction of its refund obligation insofar as it applies to purchases from Socony.²

In the offer of settlement and corollary motion thereto, Socony and Cities Service request that:

(1) The Commission accept the rate of 7.5¢ per Mcf at 16.4 psia, as set forth in Supplement No. 29 to Socony's

² Refunds covering a period of time when new increased rates became effective would be retained for distribution in pending Docket No. G-18799.

FPC Gas Rate Schedule No. 3, for the period from June 7, 1954, to date;

(2) The rate increase filed by Socony, contained in Supplement No. 30 to the aforementioned rate schedule increasing the rate for the subject sale of gas to 11.0¢ per Mcf at 14.65 psia, be effective prospectively; and

(3) Cities Service be discharged from certain of its refund obligations in Docket Nos. G-2410 and G-9468.

Both the settlement agreement and the corollary motion hereto, are contingent upon the Commission's acceptance of each of the above requests.

Substantially all of Cities Service's jurisdictional customers entitled to share in the resulting refund from Socony have consented to the settlement agreement. No one has expressed any opposition to the settlement agreement or the corollary motion filed in these proceedings.

In support of their requests, Socony and Cities Service allege that it is in the public interest, and in the interest of the parties and of the ultimate consumer affected thereby, that their respective requests be accepted by the Commission. They further allege that extensive and lengthy litigation will thus be avoided, and the rights of the various parties will be settled concurrently.

In the judgement of the Commission the proposed settlement is desirable in the public interest and is appropriate to carry out the provisions of the Natural Gas Act. Acceptance of the 7.5¢ per Mcf at 16.4 psia rate, effective as of June 7, 1954, is equitable to all concerned and will prevent any further and extensive litigation in the courts and to the Commission on this issue, the result of which is uncertain by reason of the claim that Cities Service had agreed to, or was estopped to deny, an effective rate of 8¢ per Mcf. The acceptance of the proposed increased rate contained in Supplement No. 30 to Socony's FPC Gas Rate

Schedule No. 3 is in accordance with our Statement of General Policy No. 61-1, issued September 28, 1960, and good cause exists for waiving the 30 days' notice requirement relative to the aforesaid Supplement No. 30.

The Commission finds:

Acceptance of the proposed settlement and the corollary motion filed by Socony and Cities Service with the Commission on January 18, 1961, as hereinafter ordered, is in the public interest and appropriate to carry out the provisions of the Natural Gas Act.

The Commission orders:

(A) The offer of settlement filed by Socony and the corollary motion filed by Cities Service with the Commission on January 18, 1961, are hereby approved in accordance with the provisions of this order.

(B) Supplement No. 29 to Socony's FPC Gas Rate Schedule No. 3, containing the rate of 7.5¢ per Mcf at 164 psia, is hereby accepted for filing effective as of June 7, 1954, for the subject sale of gas.

(C) The proceeding in Docket No. G-16717 is hereby terminated.

(D) Supplement No. 30 to Socony's FPC Gas Rate Schedule No. 3 is hereby accepted for filing. The 30 days' notice requirement provided in the Commission's Regulations under the Natural Gas Act is hereby waived with respect to the aforesaid Supplement No. 30, which supplement is allowed to become effective as of the date of issuance of this order.

(E) Cities Service shall refund, within 30 days after the date of issuance of this order, to the persons entitled thereto, the portion of the amount of \$3,975,037 applicable to jurisdictional sales as provided in the Commission's order

of May 25, 1956, in Docket Nos. G-2410 and G-9468. Cities Service, within 45 days after the date of issuance of this order, shall report to the Commission, in writing and under oath, the details of its calculations upon which it based its refunds made pursuant to this paragraph together with copies of releases from its customers with respect to such refund.

(F) Upon compliance with paragraph (E) hereof, Cities Service shall be discharged from its refunding obligations in Docket Nos. G-2410 and G-9468 with respect to its purchases of gas under Socony's FPC Gas Rate Schedule No. 3.

(G) This order is without prejudice to any action the Commission may take or has taken in other cases involving the invalidated Kansas Minimum Price Order or the invalidated Kansas Severance Tax.

By the Commission.

/s/ J. H. Gutride

Joseph H. Gutride,
Secretary.